

# Senate File 2409 - Reprinted

SENATE FILE \_\_\_\_\_  
BY COMMITTEE ON WAYS AND MEANS

(SUCCESSOR TO SSB 3279)

Passed Senate, Date \_\_\_\_\_ Passed House, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

## A BILL FOR

1 An Act allowing individual income tax credits for contributions  
2 made to certain school tuition organizations and including  
3 effective and retroactive applicability date provisions.  
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:  
5 TLSB 6727SV 81  
6 mg/je/5

PAG LIN

1 1 Section 1. NEW SECTION. 422.11M SCHOOL TUITION  
1 2 ORGANIZATION TAX CREDIT.  
1 3 1. The taxes imposed under this division less the credits  
1 4 allowed under sections 422.12 and 422.12B shall be reduced by  
1 5 a school tuition organization tax credit equal to sixty=five  
1 6 percent of the amount of the voluntary cash contributions made  
1 7 by the taxpayer during the tax year to a school tuition  
1 8 organization, subject to the total dollar value of the  
1 9 organization's tax credit certificates as computed in  
1 10 subsection 7. The tax credit shall be claimed by use of a tax  
1 11 credit certificate as provided in subsection 6.  
1 12 2. To be eligible for this credit, all of the following  
1 13 shall apply:  
1 14 a. A deduction pursuant to section 170 of the Internal  
1 15 Revenue Code for any amount of the contribution is not taken  
1 16 for state tax purposes.  
1 17 b. The contribution does not designate that any part of  
1 18 the contribution be used for the direct benefit of any  
1 19 dependent of the taxpayer or any other student designated by  
1 20 the taxpayer.  
1 21 3. Any credit in excess of the tax liability is not  
1 22 refundable but the excess for the tax year may be credited to  
1 23 the tax liability for the following five tax years or until  
1 24 depleted, whichever is the earlier.  
1 25 4. Married taxpayers who file separate returns or file  
1 26 separately on a combined return form must determine the tax  
1 27 credit under subsection 1, based upon their combined net  
1 28 income and allocate the total credit amount to each spouse in  
1 29 the proportion that each spouse's respective net income bears  
1 30 to the total combined net income. Nonresidents or part=year  
1 31 residents of Iowa must determine their tax credit in the ratio  
1 32 of their Iowa source net income to their all source net  
1 33 income. Nonresidents or part=year residents who are married  
1 34 and elect to file separate returns or to file separately on a  
1 35 combined return form must allocate the tax credit between the  
2 1 spouses in the ratio of each spouse's Iowa source net income  
2 2 to the combined Iowa source net income of the taxpayers.  
2 3 5. For purposes of this section:  
2 4 a. "Eligible student" means a student who is a member of a  
2 5 household whose total annual income during the calendar year  
2 6 before the student receives a tuition grant for purposes of  
2 7 this section does not exceed an amount equal to three times  
2 8 the most recently published federal poverty guidelines in the  
2 9 federal register by the United States department of health and  
2 10 human services.  
2 11 b. "Qualified school" means a nonpublic elementary or  
2 12 secondary school in this state which is accredited under  
2 13 section 256.11 and adheres to the provisions of the federal  
2 14 Civil Rights Act of 1964 and chapter 216.  
2 15 c. "School tuition organization" means a charitable  
2 16 organization in this state that is exempt from federal  
2 17 taxation under section 501(c)(3) of the Internal Revenue Code

2 18 and that does all of the following:

2 19 (1) Allocates at least ninety percent of its annual  
2 20 revenue in tuition grants for children to allow them to attend  
2 21 a qualified school of their parents' choice.

2 22 (2) Only awards tuition grants to children who reside in  
2 23 Iowa.

2 24 (3) Provides tuition grants to students without limiting  
2 25 availability to only students of one school.

2 26 (4) Only provides tuition grants to eligible students.

2 27 (5) Prepares an annual reviewed financial statement  
2 28 certified by a public accounting firm.

2 29 6. a. In order for the taxpayer to claim the school  
2 30 tuition organization tax credit under subsection 1, a tax  
2 31 credit certificate issued by the school tuition organization  
2 32 to which the contribution was made shall be attached to the  
2 33 person's tax return. The tax credit certificate shall contain  
2 34 the taxpayer's name, address, tax identification number, the  
2 35 amount of the contribution, the amount of the credit, and  
3 1 other information required by the department.

3 2 b. The department shall authorize a school tuition  
3 3 organization to issue tax credit certificates for  
3 4 contributions made to the school tuition organization. The  
3 5 aggregate amount of tax credit certificates that the  
3 6 department shall authorize for a school tuition organization  
3 7 for a tax year shall be determined for that organization  
3 8 pursuant to subsection 7. However, a school tuition  
3 9 organization shall not be authorized to issue tax credit  
3 10 certificates unless the organization is controlled by a board  
3 11 of directors consisting of seven members. The names and  
3 12 addresses of the members shall be provided to the department  
3 13 and shall be made available by the department to the public,  
3 14 notwithstanding any state confidentiality restrictions.

3 15 c. Pursuant to rules of the department, a school tuition  
3 16 organization shall initially register with the department.  
3 17 The organization's registration shall include proof of section  
3 18 501(c)(3) status and provide a list of the schools the school  
3 19 tuition organization serves. Once the school tuition  
3 20 organization has registered, it is not required to  
3 21 subsequently register unless the schools it serves changes.

3 22 d. Each school that is served by a school tuition  
3 23 organization shall submit a participation form annually to the  
3 24 department by October 15 providing the following information:

3 25 (1) Certified enrollment as of the third Friday of  
3 26 September.

3 27 (2) The school tuition organization that represents the  
3 28 school. A school shall only be represented by one school  
3 29 tuition organization.

3 30 7. a. For purposes of this subsection:

3 31 (1) "Certified enrollment" means the enrollment at schools  
3 32 served by school tuition organizations as indicated by  
3 33 participation forms provided to the department each October.

3 34 (2) "Total approved tax credits" means for the tax year  
3 35 beginning in the 2006 calendar year, two million five hundred  
4 1 thousand dollars and for tax years beginning on or after  
4 2 January 1, 2007, five million dollars.

4 3 (3) "Tuition grant" means grants to students to cover all  
4 4 or part of the tuition at a qualified school.

4 5 b. Each year by November 15, the department shall  
4 6 authorize school tuition organizations to issue tax credit  
4 7 certificates for the following tax year. However, for the tax  
4 8 year beginning in the 2006 calendar year only, the department,  
4 9 by September 1, 2006, shall authorize school tuition  
4 10 organizations to issue tax credit certificates for the 2006  
4 11 calendar tax year. For the tax year beginning in the 2006  
4 12 calendar year only, each school served by a school tuition  
4 13 organization shall submit a participation form to the  
4 14 department by August 1, 2006, providing the certified  
4 15 enrollment as of the third Friday of September 2005, along  
4 16 with the school tuition organization that represents the  
4 17 school. Tax credit certificates available for issue by each  
4 18 school tuition organization shall be determined in the  
4 19 following manner:

4 20 (1) Total the certified enrollment of each participating  
4 21 qualified school to arrive at the total participating  
4 22 certified enrollment.

4 23 (2) Determine the per student tax credit available by  
4 24 dividing the total approved tax credits by the total  
4 25 participating certified enrollment.

4 26 (3) Multiply the per student tax credit by the total  
4 27 participating certified enrollment of each school tuition  
4 28 organization.

4 29 8. A school tuition organization that receives a voluntary  
4 30 cash contribution pursuant to this section shall report to the  
4 31 department, on a form prescribed by the department, by January  
4 32 12 of each tax year all of the following information:  
4 33 a. The name and address of the members and the chairperson  
4 34 of the governing board of the school tuition organization.  
4 35 b. The total number and dollar value of contributions  
5 1 received and the total number and dollar value of the tax  
5 2 credits approved during the previous tax year.  
5 3 c. A list of the individual donors for the previous tax  
5 4 year that includes the dollar value of each donation and the  
5 5 dollar value of each approved tax credit.  
5 6 d. The total number of children utilizing tuition grants  
5 7 for the school year in progress and the total dollar value of  
5 8 the grants.  
5 9 e. The name and address of each represented school at  
5 10 which tuition grants are currently being utilized, detailing  
5 11 the number of tuition grant students and the total dollar  
5 12 value of grants being utilized at each school served by the  
5 13 school tuition organization.  
5 14 Sec. 2. EFFECTIVE AND RETROACTIVE APPLICABILITY DATES.  
5 15 This Act, being deemed of immediate importance, takes effect  
5 16 upon enactment and applies retroactively to January 1, 2006,  
5 17 for tax years beginning on or after that date.  
5 18 SF 2409  
5 19 mg:rj/cc/26